

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

GOOSE CREEK PHYSICAL MEDICINE,)
LLC,)

Plaintiff,)

vs.)

ROBERT F. KENNEDY, JR., *in his official*)
capacity as Secretary, United States)
Department of Health and Human Services,)

Defendant.)

No. 2:22-cv-03932-DCN

ORDER

In this matter, plaintiff Goose Creek Physical Medicine, LLC (“GCPM”) seeks judicial review of an alleged Medicare overpayment. See generally ECF No. 24, Amend. Compl. In short, GCPM alleges that it availed itself of the Medicare appellate process, and that on January 18, 2021, the Administrative Law Judge (the “ALJ”) issued a partially favorable decision and ordered that GCPM’s overpayment amount be recalculated. Id. ¶¶ 242–243. GCPM further alleges that, on February 18, 2022, Palmetto GBA, LLC (“Palmetto”), a Medicare Administrative Contractor, sent GCPM a letter indicating that, in light of the ALJ’s decision, GCPM’s overpayment amount had been reduced, and Palmetto later issued GCPM a refund check based on that reduction. Id. ¶¶ 246, 249. However, GCPM contends that Palmetto did not provide documentation supporting how it determined the refund amount. Id. ¶¶ 249–53. Thus, in this court, GCPM filed both a direct appeal of the ALJ’s decision and non-direct appeal claims pursuant to Shalala v. Illinois Council on Long Term Care, Inc., 529 U.S. 1 (2000), based largely on Palmetto’s alleged failure to provide an accounting to support the refund

amount. See Amend. Compl. ¶¶ 257–92; see also ECF No. 80 (GCPM’s briefing explaining the basis of its claims brought pursuant to Illinois Council).

During a hearing on August 27, 2024, the court ordered the Secretary¹ to file the administrative record in this case under seal. ECF No. 78. The court **ORDERS** that Secretary Kennedy make this filing by no later than 5 p.m. on Thursday, March 13, 2025.

Additionally, GCPM references various documents in its amended complaint in support of its non-direct appeal claims, including the letter Palmetto sent GCPM on February 18, 2022, and subsequent correspondences between GCPM and Palmetto in June 2022. Amend. Compl. ¶¶ 246, 249–253. However, because these documents apparently originated after the ALJ’s decision, GCPM does not provide a citation for these documents in the administrative record. See id. The court has authority to develop an evidentiary record when reviewing claims brought pursuant to Illinois Council, 529 U.S. at 24. Therefore, the court **ORDERS** that GCPM file under seal the documents referenced in its amended complaint related to Palmetto’s alleged failure to support its refund determination by no later than 5 p.m. on Thursday, March 13, 2025.

¹ At the time of that hearing, the defendant in this case was Secretary Xavier Becerra. Robert F. Kennedy, Jr. (“Secretary Kennedy”) was sworn in as Secretary of Health and Human Services on February 13, 2025. Pursuant to Federal Rule of Civil Procedure 25(d), he is substituted as the defendant in this case.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'D. Norton', written over a horizontal line.

**DAVID C. NORTON
UNITED STATES DISTRICT JUDGE**

**March 6, 2025
Charleston, South Carolina**